REMARKS

In paragraph 2 of the Office Action, claims 1, 6, 23 and 25-29 were rejected under 35 U.S.C.§103(a) as being unpatentable over Sparks et al. (Sparks).

Reconsideration is requested.

Sparks describes a microparticle pharmaceutical formulation which is made by first dissolving or dispersing a polymer and a drug in a solvent and thereafter removing the solvent to obtain microparticles. The microparticles are described as being useful for making a controlled release powder for use in making liquid or solid pharmaceutical dosage forms(col. 1, lines 50-65). The dimensions of the microparticles are 0.1μm to 125μm or 100nm to 125,000nm and preferably 5μm to 100μm or 5,000nm to 100,000nm. The present claims require the use of microparticles in the range of 100-900nm or 200nm to 400nm (claim 30) which is a much narrower range that the range of the Sparks patent. The microparticles of Example 1 of Sparks have a particle size range of 10μ to 180μm or 10,000nm to 180,000nm. This does not suggest the making of a microparticle based effervescent composition having a range of sizes of 100-900nm.

There are no examples of an actual effervescent composition in Sparks. The only mention of an effervescent composition is an effervescent tablet which contains no information as to how the effervescent tablet should be formulated. Claims 1 and 23 both point out that the claimed formulation is adapted to disperse in water to form an effervescent drink. There is no mention in Sparks of forming an effervescent drink. At col. 7, line 56-59, the resistance of the microparticles to chewing action is noted which suggests that all of the tablets are to be placed in the mouth. This observation is confirmed by the text of Sparks at col. 8, lines 29-32 where Sparks notes that the microparticulate nature of the Sparks formulation provides a good mouth feel for chewable and effervescent tablets due to the absence of a granular sensation. For these reasons, it is requested that this ground of rejection be withdrawn.

An early and favorable action is earnestly solicited.

Respectfully submitted,

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